



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
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SEP 27 2001

Paul Brewster, Forest Supervisor
USDA Forest Service
Finger Lakes National Forest
5218 State Highway No. 414
Hector, New York 14841

Class: EC-2

Dear Mr. Brewster:

The Environmental Protection Agency (EPA) has reviewed the draft environmental impact statement (DEIS) for Oil and Gas Leasing in the Finger Lakes National Forest (CEQ No. 010145). This review was conducted in accordance with our responsibilities under the National Environmental Policy Act and Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609, PL 91-604 12(a), 84 Stat. 1709).

In 1986, a Land Resource Management Plan (LRMP) and accompanying EIS was issued by the U.S. Forest Service (USFS), which supports a decision that 13,204 acres of the Finger Lakes National Forest (FLNF) were available for lease for oil and gas. As of January 2001, the FLNF landbase expanded to 16,036 acres; the additional 2,832 acres of new-acquired lands are currently unavailable for oil and gas leasing. The purpose of this DEIS is to validate the decisions set out in the 1986 LRMP, and to determine whether the newly acquired lands should be administratively available for oil and gas leasing. The availability decision is not a commitment to lease any lands; rather, it sets the conditions under which lands could be leased by the Bureau of Land Management (BLM), the cooperating agency on the DEIS, while meeting Forest Plan standards and surface resource protection needs. Additionally, the results of the analysis provided in the EIS will enable the Forest Supervisor to decide whether additional amendments to the FLNF 1986 LRMP are necessary. Based on these decisions, the BLM Eastern States Office will decide whether to offer for lease the specific lands authorized by the USFS, and whether or not to lease split-estate lands. The USFS and BLM will issue separate Records of Decision (RODs) at the time the Final EIS (FEIS) is released. Further NEPA analysis will be needed for subsequent steps in the exploration and development process, including the approval process for the Application for Permit to Drill (APD). Therefore, this DEIS is programmatic in nature.

The DEIS evaluates six alternatives, including: the no-action alternative; leasing under a more restrictive surface occupancy landbase; leasing with surface occupancy limited to the lands identified in the 1986 LRMP; leasing under an expanded land base; no surface occupancy on national forest lands or split estates; and leasing with surface occupancy on grazing lands and shrublands only. The DEIS identifies Alternative No. 2 (leasing under a more restrictive surface occupancy land base) as the preferred alternative

Based on our review of the DEIS, we offer the following comments:

Alternatives Analysis

Based on the information provided and the speculative nature of this proposal, it appears that a more environmentally preferable alternative is a modification of Alternative No. 5 (Consent to Leasing with Surface Occupancy on Grazing lands and Shrublands Only). The Reasonable Foreseeable Development Scenario (RFDS) provided in the DEIS describes directional and horizontal drilling methods, and explains the three phases to oil and gas development - Exploratory, Delineation, and Infill Drilling Phases. Because directional drilling is technically feasible, it appears prudent that the exploratory and delineation phase activities be limited to grassland and shrubland areas until the extent of the hydrocarbon reservoirs and their productivity have been established. Limiting these activities to the grassland and shrubland areas would further avoid and minimize impacts to the mature forested areas. If it is found that the oil reserves are not adequate to justify drilling operations, the remaining FLNF area can be preserved. Accordingly, we encourage the USFS to consider this option as a less environmentally damaging alternative when making a final decision with respect to the preferred alternative in the FEIS.

Similarly, the DEIS describes two possible methods for seismic reflection to determine the location of subsurface structures which could contain oil and gas. One method, known as vibrosis survey, involves the use of large trucks with vibrator pads to vibrate the earth and induce a shock wave and causes minimal surface disturbance. It appears that the option of using small explosive charges for performing seismic surveys has the potential for increased surface disruption. Accordingly, we encourage the USFS to utilize the least invasive alternative to obtain deep seismic reflective waves from the subsurface formations.

The DEIS identifies the 1986 LRMP as the "proposed action" and identifies Alternative 4, which calls for no oil and gas leasing or surface occupancy on the FLNF and split estates, as the "no action" alternative. The definition of a no-action alternative, where the proposed action involves updating an adopted management plan or program, is the continuation of the current management plan or program. Therefore, the "no action" alternative is continuing under the 1986 LRMP, since all decisions contained therein would still apply. Accordingly, we recommend that the final EIS identify the continuation of the 1986 LRMP as the "no action" alternative and that Alternative 4 be presented as an additional alternative.

According to the DEIS, the oil and gas industry is proceeding to lease private lands for natural gas extraction in the FLNF study area, and will be constructing gathering pipelines and transmission lines to transport the gas. The DEIS assumes that the bulk of the transmission lines will not be built on federal lands. Moreover, the DEIS indicates that because the USFS has no decision-making authority regarding these lines, an analysis of the impacts was considered outside the scope of this DEIS. We do not agree with this conclusion because it is clear that pipeline construction off of the FLNF is connected to the action in question. Further, the construction and operation of pipelines and transmission lines, even if not on FLNF property, will result in impacts that need to be evaluated as cumulative impacts of the action in question. Therefore, these activities are not outside of the scope of the DEIS. Accordingly, the FEIS

should provide some level of detail as to how potential adverse impacts will be evaluated and addressed, even if that information can only be provided conceptually at the time an FEIS is issued.

In a related matter, with respect to gas pipelines and gathering lines within the FLNF, the information sheet provided by the USFS states that a decision on pipeline locations on the FLNF cannot be made at this time. Rather, when a well is proposed, the operator will be required to submit a surface use plan that will indicate the location of any proposed pipelines. Once this location is established, a separate environmental analysis will be conducted to determine the best route-location for pipelines and identify additional restrictions. Accordingly, the DEIS provides minimal information with respect to proposed pipeline locations. Given the general public concern regarding the potential adverse impacts of pipelines throughout the FLNF, we suggest that the FEIS provide as much information as possible with respect to pipeline construction plans and possible locations. More importantly, while flexibility for placement of structures still exists, we recommend that the USFS consider developing an overall management plan for the FLNF which identifies environmentally sensitive areas, existing access roads, and preferred locations for pipelines in advance, providing operators with some guidance as to where pipeline construction activity should be avoided.

Environmental Consequences

It would be helpful if the FEIS provided additional information with respect to the actual benefits that might be realized as a result of the reserve's potential. This information would provide insight that would enable a more critical analysis of the benefits that might be accrued as a result of the proposed activities in light of the potential adverse impacts.

In general, we are concerned that the DEIS concludes that adverse environmental impacts are not expected to occur, but these conclusions are qualitative in nature and the DEIS does not clearly describe the data that was utilized to reach these conclusions. In a related matter, in situations where mitigation will likely be required, the DEIS refers to a series of Standard Operating Procedures (SOPs). However, the DEIS does not fully make the connection between the SOPs and how they will effectively mitigate the respective adverse impacts. Accordingly, we suggest that the USFS rectify this concern in the FEIS throughout the entire analysis; we have provided specific examples below to further illustrate our concern:

Recreation and Tourism/Socioeconomics: The DEIS includes strong language implying that adverse impacts to socioeconomics, including fiscal revenues, property values, and community setting and character may occur as a result of the proposed activities, and highlights these issues as being significant to the public throughout the scoping process. However, the DEIS does not quantitatively discuss these impacts or potential mitigation measures to address them. For example, although extensive detail on expected jobs and income from the proposed drilling activities is provided and that the overall cumulative impact to the area is expected to be economically beneficial, little information is provided on the economic loss to those involved in the recreation and tourism sectors. The DEIS states that increased tax and royalty revenues would be expected to help offset any increased costs of infrastructure improvements, renovations, and services but quantitative data on the increased costs is not provided. Additional information needs to

be presented in the FEIS to allow an adequate evaluation of the proposed project on these categories before a preferred alternative can be selected.

Soils and Storm water: The DEIS states that individual well sites under five acres in size do not have to comply with the National Pollutant Discharge Elimination System (NPDES) permit requirements. EPA Requires NPDES permit coverage for storm water discharges associated with large construction activities, including clearing, grading, and excavation activities that either disturb in excess of 5 acres of land, or disturb less than 5 acres but are part of a larger common plan of development. As the drilling process progresses, and additional site-specific locations for proposed activities are specified, they may be regulated under the NPDES program (for example, if proposed land clearing activities are to occur on contiguous parcels). If NPDES is determined to apply, the applicant would apply to the New York State Department of Environmental Conservation (NYSDEC) for a general permit for storm water discharges and would be required to develop and implement a Storm water Management and Erosion Control Plan for the disturbed area. Please also note that, after March 10, 2003, the threshold for regulated activities will be reduced such that construction projects (or other excavation, such as oil and gas exploration) that disturb between one and five acres of land will also be required to apply for a NPDES storm water permit.

Water Resources: The DEIS states that "Seneca Lake water is in the best possible drinking water class according to USEPA standards". This sentence should be corrected to indicate that the NYSDEC is the responsible agency for classifying waters throughout New York State. Also, USFS should consider including in the FEIS the classification of Cayuga Lake and general information on the state's classification system.

Wetlands: Table 4.4-4 appears to depict only wetlands regulated by the NYSDEC. The DEIS also states that 49 confirmed or potential wetlands occur in the FLNF, but no reference is provided. Omission of federally regulated wetlands may lead to a significant underestimate of regulated wetlands within the study area. The FEIS should provide additional details as to the location of wetlands within the FLNF, based upon, at a minimum, consultation of National Wetlands Inventory maps and soil surveys. When site-specific environmental assessments are performed, wetlands should be delineated using the 1987 Federal Wetlands Delineation Manual, issued by the U.S. Army Corps of Engineers (USACE), and consultation with the USACE for a Department of the Army permit pursuant to the Clean Water Act should occur. The alignments of access roads, drill and well pads, trench installation and pipeline crossings should avoid delineated wetlands and aquatic resources to the maximum extent practicable, and unavoidable impacts must be minimized. Compensatory mitigation should be required, including conversion of forested or scrub/shrub wetland communities to emergent wetlands.

Traffic and Infrastructure: The DEIS admits that there would be a noticeable increase in vehicular traffic and especially heavy equipment traffic on the roadway structure, even in the no-action alternative, and that cumulative impacts with oil operations outside of the FLNF might lead to an overall increase of 234 vehicles per days. The DEIS concludes that, even if all of these vehicle trips were to occur along a single road, the level of service for the various roads in the region would not be affected. Supporting data should be provided to justify this conclusion.

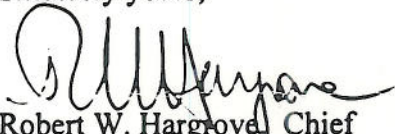
Visual Impacts and Noise Impacts: In its discussion of mitigation for adverse visual impacts, the DEIS states that establishing an immediate foreground buffer distance of 300 feet for placement of well sites and planting of screening vegetation at production sites will help mitigate long-term effects. Similarly, the DEIS also provides a qualitative discussion of potential mitigation that might be implemented to mitigate for noise impacts. In both cases, however, it is not clear as to under what authorities these measures will be required. The FEIS should indicate whether these requirements are included in the SOPs or whether they will be required as part of mitigation developed during the site-specific analysis.

Cultural Resources: The DEIS states that the Finger Lakes Region is rich in prehistoric and historic heritage resources, and that many of these sites are Native American in origin. The impacts to the known and potential heritage resources will be addressed at the APD stage, requiring a survey for heritage resources at the site-specific level before any construction is initiated. Consistent with Section 106 of the National Historic Preservation Act (NHPA), consultation with the Native American community should occur. Additionally, Section 110 of the NHPA requires land-holding federal agencies to develop an inventory of historic properties and site-management plans. Through this effort, the USFS should consider developing guide specifications for permittees to consider during the ADP phase, to assure that data gathered is consistent with the management plan.

In conclusion, based on our review and in accordance with EPA policy, we have rated this draft EIS as EC-2, indicating that we have environmental concerns (EC) about the project's potential impacts and that additional information (2), as described above, should be presented in the FEIS to address these concerns.

Should you have any questions concerning our review, please have your staff contact Barbara Spinweber at (212) 637-3747.

Sincerely yours,



Robert W. Hargrove, Chief
Strategic Planning and Multi-Media Programs Branch

cc: NYSDEC
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